

**COMMONWEALTH OF VIRGINIA**

**CONRAD STATE-30  
J-1 VISA WAIVER PROGRAM**

**GUIDELINES**

**Developed by:**

**Virginia Department of Health  
Office of Minority Health & Health Equity  
(October 1 – September 30)**

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**I. BACKGROUND**

Federal law requires that International Medical Graduates (IMGs), who are not United States (U.S.) citizens but are accepted to pursue graduate medical education or residency training in the U.S., must obtain a J-1 exchange visitor visa. The J-1 visa allows the IMGs to remain in the U.S. until they complete their studies. Upon completion of their studies, the IMGs on J-1 visas (the “J-1 Physicians”) must return to their home country for at least two years before they can return to the U.S.

Under certain circumstances, a J-1 Physician may request the U.S. Citizenship and Immigrations Service (USCIS) to waive the “two-year home country physical presence requirement.” The waiver may be requested under any one of the following circumstances:

- Extreme hardship to his/her spouse or children who are citizens or permanent residents of the U.S.;
- Persecution if forced to return to his/her home country;
- A U.S. government agency makes a request for the waiver on the basis that the J-1 Physician's work is in the national and/or public interest;
- A state department of health makes a request for the waiver on the condition that the physician agrees to practice in an area having a shortage of health care professionals. This provision allows state departments of health to sponsor up to thirty J-1 Physicians per federal fiscal year (October 1 - September 30) under the Conrad State-30 Program.

In addition to its participation in the Conrad State-30 Program, the Commonwealth of Virginia (the “Commonwealth”) also participates in the Appalachian Regional Commission’s (ARC) J-1 Visa Waiver Program. ARC is a federal government agency that considers J-1 visa waiver requests by state governors on behalf of medical facilities located in Health Professional Shortage Areas (HPSAs) in the respective state's Appalachian Region.

**II. PURPOSE**

Improving access to primary health care, and needed specialty care, in medically underserved areas is an important goal of the Virginia Department of Health (VDH). The purpose of the Commonwealth’s J-1 Visa Waiver Program is to increase access by sponsoring J-1 Physicians who agree to serve in medically underserved areas of the Commonwealth for the waiver of the “two-year home country physical presence requirement” (the “J-1 visa waiver”). The Commonwealth’s participation in the Conrad State-30 program enables the VDH to act on behalf of the Commonwealth and request waivers for eligible J-1 Physicians. The VDH may act as an interested state agency to request up to thirty (30) J-1 visa waivers per year.

**III. POLICY**

Given the need for improving access to primary health care, preference for J-1 visa waivers is given to physicians trained in the specialties of Family Practice, Internal Medicine, Pediatrics, Obstetrics and Gynecology and general Psychiatrists. Non-primary care physicians who fill a documented community health care need may also, with appropriate documentation, be considered for J-1 visa waivers.

There is likewise, a preference given to J-1 Physicians being recruited for placement in Health Professional Shortage Areas (HPSAs) over Medically Underserved Areas (MUAs) or Medically Underserved Populations (MUPs). The J-1 Physicians who wish to receive waivers must meet both the federal eligibility criteria and VDH qualifications for J-1 visa waivers. **Prioritizing applications for waiver recommendations is at the discretion of the VDH.**

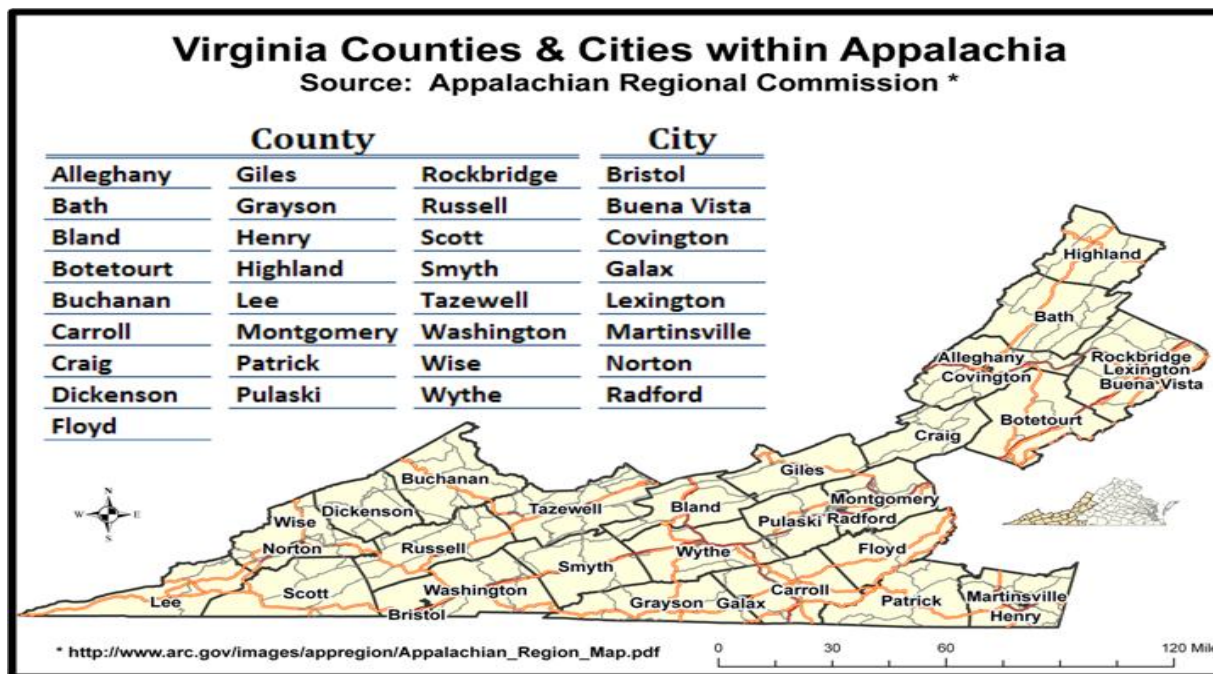
The VDH prioritizes the J-1 Visa Waiver submissions received by the following criteria: Virginia trained residency, practice site locations: Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), Virginia Medically Underserved Area (VMUA) and Medically Underserved Population (MUP) designation rankings.

The Commonwealth of Virginia's participation in the Conrad 30 Program is completely discretionary, voluntary and may be modified or terminated at any time. In all instances, the VDH reserves the right to support or deny support for any request for a waiver.

\*\*\*\*\*

During the 2011 & 2012 cycle, Virginia utilized all 30 of its J-1 Waiver slots. In an effort to maximize available resources, and improve access to health care for residents of underserved areas, applicants that are eligible for the Appalachian Regional Commission (ARC) J-1 Wavier program should utilize the ARC J-1 Waiver program. In the Virginia, there are (25) twenty-five counties and (8) eight independent cities that are eligible for the ARC J-1 Wavier program. Below is a detailed map of the Appalachian Region counties and cities. Click the link for information on ARC J-1 Waiver program: <http://www.arc.gov/j1visawaiver>.

\*\* Specialist physicians are **NOT** eligible for the ARC J-1 Waiver program and should seek a Specialist slot through Virginia's J-1 Waiver program.



#### IV. Eligibility AND QUALIFICATIONS FOR EMPLOYERS

Employers of J-1 Physicians must meet the following requirements:

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1. The practice site must be physically located in a federally designated Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP) for primary care and in a Mental Health Professional Shortage Area (MHPSA) for mental health care;
2. The practice site must have attempted unsuccessfully to recruit a U.S. citizen or a permanent resident physician for a **period of at least six months**;
3. An employer or owner of the practice site who has previously defaulted on a J-1 visa waiver contract, or who is in default of the National Health Service Corps or any state scholarship or loan repayment program is not eligible to request a waiver; and
4. The J-1 Physician may not submit an application as an employer on his/her own behalf. Compensation offered to the J-1 Physician must be at least equal to the local prevailing wage for the position or the employer's actual wage for similarly employed U.S. workers, whichever is higher.

## **V. ELIGIBILITY AND QUALIFICATIONS FOR J-1 PHYSICIANS**

To meet the eligibility and qualifications for visa waivers, J-1 Physicians must:

1. Have completed, or in last year, of a 3-year residency program;
2. Agree to begin practice within 90 days of receiving the waiver;
3. Agree to practice for a period of not less than three years in a federally designated shortage area (HPSA, MUA/P, or MHPSA);
4. Have an Educational Commission for Foreign Medical Graduates (ECFMG) certificate;
5. Have passed all three steps of the United States Medical Licensing Examination (USMLE) or equivalent; and
6. Have a Virginia license to practice medicine or applied for one.
7. Must provide a Curriculum Vitae (CV), which must reflect current contact information.

## **VI. APPLICATION PROCESS FOR NEW J-1 VISA WAIVERS**

The J-1 visa waiver application process consists of the following:

- A. Obtain a J-1 visa waiver case number from the U.S. Department of State;
- B. Identify practice sites in Virginia eligible to employ J-1 Physicians;
- C. Seek employment at an eligible practice site;
- D. Secure an employment contract (contingent on securing the J-1 visa waiver); and
- E. Submit an application to the VDH. **Allow at least 8 - 10 weeks, for processing applications.**

### **A. Obtaining a J-1 Visa Waiver Case Number**

The first step in the application process involves the J-1 Physician obtaining a J-1 visa waiver case number from the U.S. Department of State. This step must be completed before submission of the application to VDH. VDH will not process any application without a J-1 visa waiver case number. To obtain the information needed to apply for the case number, the J-1 Physician can go to: <http://travel.state.gov/>. (click on Visas) or request the application packet by writing to:

U.S. Department of State Waiver Review Division  
P.O. Box 952137 St. Louis, MO 63195-2137

To obtain a J-1 visa waiver case number, the J-1 Physician should send a completed Waiver Review Application Data Sheet to the Waiver Review Division of the U.S. Department of State with the required fee and two self-addressed stamped legal-size envelopes (see instructions posted on the above web site).

Once the Waiver Review Division of the U.S. Department of State has received the Application Data Sheet, it will send the J-1 Physician a J-1 visa waiver case number and instructions on how to proceed with the application. The instructions will include a list of documents that must be submitted to complete the waiver review application. After the case number is received, it must be affixed to all documents included in waiver-related correspondence with the Waiver Review Division and VDH. **If the case number is not affixed to all documents when communicating to the VDH, the documents will be returned to the applicant.**

## **B. Identifying Practice Sites Eligible to Employ J-1 Physicians**

The practice site must be physically located in a currently designated federal Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP). The practice site for general psychiatry must be physically located in a current federal Mental Health Professional Shortage Area (MHPSA). A list of all currently designated Primary Health Care and Mental Health HPSAs and Medically Underserved Areas/Populations (MUA/Ps) designation can be found at the U.S. Dept. of Health and Human Services, Health Resources and Services Administration (HRSA) Shortage Designation website at: <http://bhpr.hrsa.gov/shortage/>. The designation must be current on the date the U.S. Department of State reviews the application and on the date the USCIS approves the J-1 visa waiver. Therefore, any application that is being submitted to the VDH at the end of the three-year HPSA designation cycle may be summarily denied if the renewal is not obtained.

## **C. Seeking Employment at Eligible Practice Sites**

The J-1 Physician is responsible for finding potential practice sites that would be willing to employ him/her. Because all eligible practice sites must demonstrate that they have attempted unsuccessfully to recruit a U.S. citizen or a permanent resident physician for a period of at least six months, the J-1 Physician can locate potential employers through earlier recruitment efforts. J-1 Physician applicants who have completed a residency program within the Commonwealth are encouraged to contact their residency program coordinator or utilize the National Rural Recruitment and Retention Network recruitment website for placement assistance, [www.3RNet.org](http://www.3RNet.org). During the recruitment phase, the J-1 Physician and the potential employer should become familiar with the obligations and responsibilities outlined in the Virginia State-30 J-1 Visa Waiver Program Guidelines.

## **D. Obtaining an Employment Contract**

It is the responsibility of the J-1 Physician to obtain an employment contract with a practice site. The VDH assumes no responsibility for negotiations, content of, or for termination of the employment contracts. The contract must:

- Be for a period of three years or longer;
- Include the full street address(es) and telephone number(s) of all the site(s) where the J-1 Physician will practice;
- Contain a statement by the J-1 Physician agreeing to meet the requirements set forth in Section 214(l) of the Immigration and Nationality Act;
- Indicate the schedule and the number of hours per week that the J-1 Physician will practice (must be at least 40 hours per week for at least 4 days not including travel and/or on-call time);
- Include the fixed salary; and
- Not include a non-compete clause or restrictive covenant preventing or discouraging the J-1 Physician from continuing to practice in any federally designated shortage area after the period of obligation has expired.

## **E. Submitting an Application to the Virginia Department of Health**

The J-1 Visa Waiver application that is submitted to the VDH must meet all the requirements mentioned in this guideline. The applicant or the applicant's immigration attorney must submit an original and one hard-copy application. Applications that are faxed or electronically delivered will not be reviewed. Please allow two weeks, maximum four weeks, to process an application.

**Note:** If an attorney assists with the application process, it is recommended that the J-1 Physician does not use the employer's attorney in order to avoid possible conflicts of interest.

### **i. Requirements for the Employer**

#### **The employer must provide:**

- An original and a copy of the employment contract signed by both the employer and the J-1 Physician;
- A letter requesting that the VDH act as an "interested government agency" and recommend a waiver on behalf of the J-1 Physician. The letter must also include:
  - the name and medical specialty of the J-1 Physician,
  - qualifications of the J-1 Physician,
  - a work schedule for the J-1 Physician and a statement that the J-1 Physician will practice at least 40 hours per week during normal office hours at least 4 days per week (on-call and travel times do not count toward the 40-hour minimum), and
  - a description of the effect on the community if the waiver is denied.
- A completed "Medical Practice Site and Program Description" form (Attachment 1 for existing practice site or Attachment 2 for practice site under development);
- Proof of prior **6-months' efforts to recruit a U.S. citizen or a permanent resident physician** (including advertisements, postings on ppova.org, agreements with placement services, letters to medical schools, copies of resumes received, list of applicants interviewed, and the reasons for rejection);
- A copy of the employer's Medicaid and Medicare Provider Agreements;
- Proof of the practice site's willingness to treat patients of all income levels. Such proof must include, at a minimum, a copy of the sliding fee scale and evidence of charitable care provided. and

- A statement from the employer indicating that the employer and its principals, such as owners, administrators, or medical directors are not under investigation, indictment or conviction for violations of federal, state, or local laws, regulations, or ordinances related to the medical practice. In addition, the statement should include the employer is not the subject of any financial legal or regulatory proceedings that could reasonable result in the practice sites inability to function as an employer.

The employer must not charge patients more than the usual and customary rate prevailing in the federally designated shortage area in which services are provided.

If the practice site is located in a special population HPSA, the employer must also provide the following information on the patients served by the practice, unless the practice is a Community Health Center or a Federally Qualified Health Center:

- ~ the percentage of patients who are provided health services at a reduced rate,
- ~ the percentage of Medicare patients, and
- ~ the percentage of Medicaid patients.

Multi-specialty practices and other practices that provide services other than the primary care specialties of family practice, internal medicine, pediatrics, obstetrics/gynecology, or psychiatry may submit applications on behalf of J-1 Physicians who have non-primary care subspecialties or fellowship training. However, documentation must be submitted to support an extreme need for the medical service. Documentation may include the number of like positions in the community, define community demographics, current effects of not having position available in the community and/or other examples that indicate the need in the community.

## ii. Requirements for the J-1 Physician

The J-1 Physician must provide:

- ☐ A completed J-1 Physician Assurances form (Attachment 3);
- ☐ A current Curriculum Vitae;
- ☐ At least three (3) letters of recommendation in support of the waiver applicant's professional abilities and qualifications;
- ☐ A copy of his/her current Virginia license to practice medicine or proof of application to obtain one;
- ☐ Documentation of Board Certification or a letter from the director of the J-1 Physician's residency program attesting to Board eligibility;
- ☐ A copy of the completed Waiver Review Application Data Sheet, including the case number issued by the U.S. Department of State;
- ☐ All copies of the Certificates of Eligibility for Exchange Visitor (J-1) Status;
- ☐ All copies of the IAP-66/DS-2019 sheets issued by the U.S. Information Agency for each year the J-1 Physician maintained the J-1 visa status with no time gaps;
- ☐ A copy of his/her passport including all visa entries;
- ☐ A copy of the U.S. Department of State letter assigning the case number;
- ☐ Copies of any I-94 Entry and Departure Cards; and
- ☐ An explanation of any period spent in some other visa status, out of status, or outside of the U.S.



## **F. VDH Procedural Guidelines**

For an application to be deemed complete, it must include all the required documents from the employer and the J-1 Physician and submitted with tabs in the order presented in the Application Checklist (Attachment 6). The J-1 Physician's case number obtained from the U.S. Department of State must be affixed to each document and on all correspondence submitted to the VDH. All documents must be on standard 8.5 by 11-inch white paper. Applications should be mailed to:

Virginia Department of Health  
Office of Minority Health & Health Equity  
**ATTN: J-1 Program**  
109 Governor Street  
Suite 1016 East  
Richmond, Virginia 23219

The VDH will notify the applicant or his/her legal counsel if missing documents or additional information is required for the review to proceed. A substantial review will not proceed unless all required documentation is present.

The VDH will forward complete applications receiving favorable recommendations to the U.S. Department of State for review. VDH will notify the practice site in writing (via attorney) that the application has been forwarded with a positive recommendation to the U.S. Department of State for subsequent submission to the USCIS for approval. If there is no lawyer, then the VDH will forward the letter directly to the employer.

Once the U.S. Department of State recommends the application for approval, it will forward the application to the USCIS with a recommendation for approval. The USCIS will send notification directly to the J-1 Physician after it approves the application recommended by the U.S. Department of State.

## **G. VDH Application Evaluation Standards**

When reviewing each J-1 visa waiver application, the VDH will ensure that the proposed placement of the J-1 Physician will not adversely affect or compromise the delivery of health care in the medically underserved area.

When reviewing applications, the VDH will view negatively any past or current disciplinary actions or proceedings taken by the Virginia Board of Health Professions (or comparable professional medical review boards in other states) against the employer in cases where the employer is a medical professional.

The VDH will view negatively the J-1 visa waiver applications from any employer whose principals such as owners, administrators, or medical directors are under investigation, indictment, or conviction for violations of federal, state, or local laws, regulations, or ordinances related to medical practice.

The VDH will have the discretion to limit the number of J-1 visa waivers granted to employers who submit multiple applications. The only exception will be applications from federally funded clinics or state agencies that provide healthcare to the indigent, uninsured or institutionalized populations.

When considering J-1 Physicians for employment, employers may choose to impose additional requirements than provided for in these guidelines to assure that the delivery of healthcare services is consistent with their practices' policies.

During the contractual period, failure to meet any of the criteria requirements shall result in a retraction of Virginia's support. Such action will affect the physician's visa status and the employer's eligibility to participate in the program in the future.

## **VII. APPLICATION PROCESS FOR J-1 PHYSICIANS WITH AN EXSTING WAIVER TO TRANSFER TO ANOTHER EMPLOYER OR MEDICAL FACILITY**

### **A. J-1 Physician Requirements:**

- Affix the U.S. Department of State J-1 visa waiver case number to all documents included in waiver-related correspondence with the VDH;
- Notify the VDH, in writing, of the intent to transfer and the reasons for the transfer at least 60 days in advance, if possible;
- Provide the VDH with the proposed new employer, practice site name, address, telephone number, and date of transfer;
- Serve a minimum of two full years or the time left under his/her previous obligation, whichever is greater, regardless of the time served at his/her previous location;
- Assume the sole responsibility for notifying the employer of the intent to transfer to another practice site; and
- Assume all legal and/or financial obligations that may accrue from a breach of contract or the establishment of "reasonable cause" for the termination of the employment contract.

### **B. Original employer requirements:**

- Affix the U.S. Department of State assigned J-1 visa waiver case number to all documents included in waiver-related correspondence with VDH;
- Provide a letter to VDH releasing the J-1 Physician from the employment contract and explanation for the release.
- Complete the VDH Reporting Requirements as set forth in Section IX of the J-1 Visa Waiver Program Guidelines.

### **C. New employer requirements:**

- Affix the U.S. Department of State J-1 visa waiver case number to all documents included in waiver-related correspondence with VDH;
- Provide a letter to VDH of the intent to employ the J-1 Physician;
- Provide VDH with a signed original of the employment contract;
- Meet the Eligibility and Qualifications for Employers requirements as set forth in Section IV of the J-1 J visa Waiver Program Guidelines;

- Complete the Transfer Notification form (Attachment 5); and
- Agree to fulfill the VDH Reporting Requirements (Attachment 4) as set forth in Section IX of the J-1 Visa Waiver Program Guidelines.

**Note:** Under no circumstance should a relocation of a J-1 visa waiver recipient occur without prior written authorization by the VDH. The same review criteria used in the VDH State-30 J-1 Visa Waiver Program Guidelines for new applicants will be applied in recommending a transfer request.

## **VIII. APPLICATION PROCESS FOR J-1 PHYSICIANS WITH AN EXSTING WAIVER TO TRANSFER TO VIRGINIA FROM ANOTHER STATE**

### **A. J-1 Physician requirements:**

- Affix the U.S. Department of State J-1 visa waiver case number to all documents included in waiver-related correspondence with the VDH;
- Complete the J-1 visa waiver application process as set forth in Sections IV-VI and obtain a Virginia medical license prior to beginning practice (at least 60 days in advance, if possible);
- Serve a minimum of two full years or the time left under his/her previous obligation, whichever is greater, regardless of the time served at his/her previous location;
- Assume the sole responsibility for notifying the employer of the intent to transfer to another state; and
- Assume all legal and/or financial obligations that may accrue from a breach of contract or the establishment of “reasonable cause” for the termination of the employment contract.

### **B. New employer requirements:**

- Affix the U.S. Department of State J-1 visa waiver case number to all documents included in waiver-related correspondence with the VDH;
- Provide a letter to the VDH of the intent to employ the J-1 Physician;
- Provide the VDH with a signed original of the employment contract (the J-1 Physician must serve a minimum of two full years or the time left under his/her previous obligation, whichever is greater, regardless of the time served at his/her previous location);
- Meet the Eligibility and Qualifications for Employers requirements as set forth in Section IV of the J-1 Visa Waiver Program Guidelines;
- Complete the "Transfer Notification Form" (Attachment 5);
- Agree to fulfill the VDH Reporting Requirements (Attachment 4) as set forth in Section IX of the J-1 Visa Waiver Program Guidelines. Failure on the part of the J-1 Physician to submit accurate and truthful semiannual reports will result in a report of non-compliance to USCIS;

**Note:** Under no circumstance should a relocation of a J-1 visa waiver recipient occur without prior written authorization by VDH. The same review criteria used in the VDH State-30 J-1 Visa Waiver Program Guidelines for new applicants will be applied in evaluating a transfer request.

## IX. VDH REPORTING REQUIREMENTS:

1. The J-1 Physician and the Chief Executive Officer or Administrator of the employing entity must provide VDH a semi-annual Verification of Employment (VOE) form which verifies the J-1 Physician's employment at the practice site (Attachment 4). The first report must be submitted within 30 days of employment. Subsequent reports must be submitted **every six months** from the contract execution date with a final report due upon completion of the three-year commitment.
2. If the employment contract is terminated prior to its scheduled end date, the J-1 Physician and Employer must provide written notification and explanation to the VDH.
3. The employer of a J-1 Physician that transfers to another medical facility within Virginia must submit a final VOE form upon termination of the contract.
4. The new employer of a J-1 Physician who has transferred from within Virginia or another state must file the first work verification form within 30 days of the transfer. Subsequent reports must be submitted every six months from the contract execution date with a final report due upon completion of the contract.
5. Failure on the part of the J-1 Physician to submit accurate and truthful semi-annual forms will result in a report of non-compliance to the USCIS. Failure on the part of the Chief Executive Officer or Administrator of the employing entity to submit accurate and truthful semi-annual reports will jeopardize future eligibility for J-1 placement at the practice site and may result in an out-of-compliance report for the J-1 Physician.
6. Any changes to the physician's J-1 status based on other methods should be promptly reported to VDH to ensure physician's records are accurately updated during the 3 year obligation requirement.